

Fact that a husband has been separated for 12 years preceding his death, from his family, and has contributed nothing to their support does not limit plaintiffs to nominal damages. The right of support continues until death of husband. Admissibility of evidence. *B. & O. R. R. Co. v. State*, use *Chambers*, 81 Md. 388.

The failure of the jury to divide damages among those entitled, as provided by this section, is not ground for reversal at instance of defendant, in the absence of prejudice. *B. & O. R. R. Co. v. Reuter*, 114 Md. 698, distinguished. *Passapae v. Oehring*, 141 Md. 61.

As to nominal damages, see also *B. & O. R. R. Co. v. State*, use *Fryer*, 30 Md. 54; *B. & O. R. R. Co. v. State*, use *Chambers*, 81 Md. 388.

The court of appeals cannot deal with the matter of excessive damages, or the apportionment thereof. The only remedy for excessive damages, is with lower court on motion for new trial. *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 466.

In suit of a parent, where child dies before attaining its majority, no damages can be assessed for pecuniary benefits after period of such majority, although the child has been emancipated and continues to contribute to its parents' support thereafter; *contra*, if child dies after attaining its majority, and since that time rendered services to its parent. *Pikesville, etc., R. Co. v. State*, use *Russell*, 88 Md. 573; *Agricultural, etc., Assn. v. State*, use *Carty*, 71 Md. 99; *State*, use *Coughlan*, *v. B. & O. R. R. Co.*, 24 Md. 107.

For measure of damages in suit of parent for death of his or her minor child, see *Agricultural, etc., Assn. v. State*, use *Carty*, 71 Md. 99; *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 467; *Maryland v. Miller*, 180 Fed. 796.

For measure of damages in a suit by widow and children of deceased, see *Consol. Gas Co. v. Smith*, 109 Md. 205; *Baltimore, etc., Turnpike v. State*, use *Grimes*, 71 Md. 582; *Philadelphia, etc. R. R. Co. v. State*, use *Bitzer*, 58 Md. 399; *B. & O. R. R. Co. v. State*, use *Woodward*, 41 Md. 300; *B. & O. R. R. Co. v. State*, use *Kelly*, 24 Md. 279; *B. & O. R. R. Co. v. State*, use *Trainor*, 33 Md. 554. And see *Maryland v. Miller*, 180 Fed. 796.

Limitations.

Since the right of recovery for negligence causing death is altogether dependent upon statute, failure to sue within time limited by this section operates as a complete bar, notwithstanding art. 57, sec. 5, and although defendant was not suable in Maryland during the year. *Swanson v. Atlantic, etc., Co.*, 156 Fed. 977.

The general rule is that where limitations is not a bar before suit brought, an amendment of declaration *when cause of action remains the same* will not warrant filing of plea of limitations, although period has then expired, and this is true though the original declaration is bad on demurrer; *contra*, when amendment changes cause of action. Limitations held not to be a bar. *State*, use *Zier*, *v. Chesapeake Ry. Co.*, 98 Md. 37. See also *Western Union Tel. Co. v. State*, use *Nelson*, 82 Md. 306; *Cf. Hamilton v. Thirston*, 94 Md. 256.

Declaration which discloses that suit not brought within twelve months is bad on demurrer. *State v. Parks*, 148 Md. 479.

Generally.

This section referred to in construing art. 101, sec. 72—see notes thereto. *Clough & Malloy v. Shilling*, 149 Md. 193.

Workmen's Compensation Act authorizes employer to recover damages from person causing injury to employee, thereby adding to those who can enforce liability under sec. 1. *Storrs et al. v. Mech, et al.*, 166 Md. 124.

Workmen's Compensation Law (art. 101) adds an additional class that may sue under this section, and included in this class are sisters. *Mech v. Storrs*, 169 Md. 150.

Cited but not construed in *State v. Katceef*, 159 Md. 273.

Damages recoverable by equitable plaintiff are measured by relationship of plaintiff and decedent and the pecuniary benefit plaintiff would probably have received if decedent had continued to live; obligations and duties incident to relationship; obligation of child ceases when reaching majority. *Assurance Corp. v. B. & O. R. R. Co.*, 173 Md. 238.

Cited in construing Sec. 1. *Dunnigan v. Cobourn*, 171 Md. 26.

Proof of a reasonable expectation of pecuniary benefit or advantage from a continuance of life of deceased is sufficient to support an action under sec. 1. The right of action is not conditioned upon a legal claim on the deceased for support, and hence may include adult children and a married daughter for whom the mother performed services. *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 467; *B. & O. R. R. Co. v. State*, use *Mahone*, 63 Md. 145; *B. & O. R. R. Co. v. State*, use *Kelly*, 24 Md. 281.

All of parties entitled need not be joined as equitable plaintiffs, nor can those who are entitled be prejudiced by joinder of some who are not entitled. *Deford v. State*, use *Keyser*, 30 Md. 208.

This section does not deprive a plaintiff of the right to sue different joint *tortfeasors* separately, although there can be but one satisfaction. There can be, however, only one suit against same defendant under this article. *State*, use *Bashe, v. Boyce*, 72 Md. 143; *Deford v. State*, use *Keyser*, 30 Md. 208.